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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Pulte Home Company LLC,

10 Plaintiff,

11 v.

12 Midwest Family Mutual Insurance
13 Company, et al.,

14 Defendants.

No. CV-23-00167-TUC-CKJ

ORDER

15 The Plaintiff's Complaint (Doc. 1) and First Amended Complaint (Doc. 39) named
16 the wrong Defendant, he Cincinnati Indemnity Company (CSI), a Delaware corporation,
17 instead of the Cincinnati Specialty Underwriters Insurance Company (CSU), a Delaware
18 corporation. The Plaintiff also served the Cincinnati Indemnity Company, the wrong
19 Defendant. Subsequently, CSU filed a motion to quash service or dismiss for lack of proper
20 service. (Doc. 43.) Plaintiff joins in the motion to quash to the extent that it be allowed to
21 amend the case caption to correct the named parties to include CSU, not CSI. Plaintiff has
22 obtained a corrected summons for service on CSU. Plaintiff has not served CSU. *See*
23 (Joinder (Doc. 73)).

24 Pursuant to Fed. R. Civ. P.4(m), If a defendant is not served within 90 days after the
25 complaint is filed, the court—on motion or on its own after notice to the plaintiff—must
26 dismiss the action without prejudice against the defendant or order that service be made
27 within a specified time. But if the plaintiff shows good cause for the failure, the court must
28 extend the time for services for an appropriate period.”

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2 **Accordingly,**

3 **IT IS ORDERED** that the Motion to Quash Defective Service of Process or
4 Dismiss (Doc. 43) is GRANTED IN PART as to the defective service on CSU.

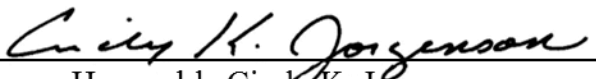
5 **IT IS FURTHER ORDERED** that the Plaintiff shall be given seven (7) days from
6 the filing date of this Order to serve CSU.

7 **IT IS FURTHER ORDERED** that the motion (Doc. 43) is DENIED AS MOOT
8 IN PART as to the request to dismiss CSU from the case.

9 **IT IS FURTHER ORDERED** that failure to serve CSU within 7 days and file
10 proof of such service may result in dismissal of the case against CSU; the denial of the
11 request for dismissal that CSU urged in the Motion to Quash, filed by CSU on June 5,
12 2023, is without prejudice in the event Plaintiff fails to serve CSU within the 7-day time
13 extension.

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall change the case
15 caption to delete CSI and reflect that CSU is the named Defendant in the case.

16 Dated this 28th day of June, 2023.

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19 Honorable Cindy K. Jorgenson
20 United States District Judge
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